

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHOICE HOTELS INTERNATIONAL, INC.,

Plaintiff,

v.

PENTA DENVER LLC, et al.,

Defendants.

Case No.: C-13-080249 WHA (JSC)

**REPORT AND RECOMMENDATION TO  
GRANT MOTION FOR A CHARGING  
ORDER (Dkt. No. 15)**

In this debt enforcement action, Plaintiff Choice Hotels International, Inc. has filed a motion for an order charging Defendant Mukesh J. Mowji's membership interest in Lemoore Crossings LLC ("Lemoore") with payment of a judgment obtained against Defendants, including Mowji, in the United States District Court for the District of Maryland. (Dkt. No. 15.) Plaintiff asserts that the sum due and owing under the judgment is \$130,470.88 as of April 10, 2014. (See Dkt. No. 15 at 2.) Neither Mowji nor any other defendant, despite being served with the motion by mail (Dkt. No. 15 at 21 – 22), has filed an opposition to Plaintiff's motion or communicated with the Court in any way. After carefully considering Plaintiff's motion, the Court VACATES the April 24, 2014 hearing, and RECOMMENDS that Plaintiff's motion be GRANTED.

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**BACKGROUND**

In July 2011, Plaintiff filed an application to confirm an arbitration award in the District of Maryland, commencing the action captioned as *Choice Hotels Int'l, Inc. v. Penta Denver, LLC, et al.*, No. 8:11-cv-02049-RWT (D. Md. July 26, 2011). Plaintiff was previously awarded \$129,849.48 in an arbitration, after a preliminary hearing where Defendants, after receiving notice, “elected neither to appear nor to participate.” (Dkt. No. 1, Ex. 1.) Defendants were served with the summons and a copy of the application to confirm the arbitration award in September 2011. In January 2013, the District of Maryland entered a default judgment for Plaintiff and against Defendants Penta Denver, LLC, Penta Hospitality, LLC, Tarun S. Patel, Mukesh J. Mowji, and Anil R. Patel. *See* No. 8:11-cv-02049-RWT, Dkt. No. 18.

In November 2013, the District of Maryland default judgment was registered in this district. *Choice Hotels Int'l, Inc. v. Penta Denver, LLC, et al.*, No. 3:13-mc-80249-WHA (N.D. Cal. Nov. 7, 2013). Plaintiff subsequently moved for an assignment order and a charging order against Defendant Tarun S. Patel (“Patel”). (Dkt. Nos. 2, 3.) After no objections were filed, Judge Alsup issued an Order adopting this Court’s recommendation that both motions be granted with respect to Patel. (Dkt. No. 12.) Final judgment was entered against Patel and the case was terminated. (*See* Dkt. No. 13.)

**DISCUSSION**

Plaintiff moves for an order:

charging the interest of Defendant/Judgment Debtor Mukesh J. Mowji in the following limited liability company: ‘Lemoore Crossings LLC [Entity No. 200631710126], 10752 Rockhurst Avenue, North Tustin, CA 92705’, [sic] with the unsatisfied portion of the judgment entered in this action which as of April 10, 2014 is \$130,470.98.

Mowji has failed to file any objection to the motion. [California Code of Civil Procedure Section 708.310](#), applicable through [Federal Rule of Civil Procedure 69\(a\)](#), states:

If a money judgment is rendered against a partner or member but not against the partnership or limited liability company, the judgment debtor’s interest in the partnership or limited liability company may be applied toward the satisfaction of the judgment by an order charging the judgment debtor’s interest pursuant to Section 15907.3, 16504, or 17705.03 of the Corporations Code.

Corporations Code Section 17705.03 in turn provides:

On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

An order charging Mowji's interest in Lemoore with the unpaid judgment can thus be issued.

### CONCLUSION

For the reasons explained above, the Court RECOMMENDS that Plaintiff's motion for a charging order be GRANTED. The Court further recommends that the following be ordered: Defendant Mukesh J. Mowji's interest, if any, in Lemoore Crossings LLC is hereby charged with the unsatisfied portion of the judgment entered by the District of Maryland in *Choice Hotels Int'l, Inc. v. Penta Denver, LLC, et al.*, No. 8:11-cv-02049-RWT, Dkt. No. 18 (D. Md. Jan. 14, 2013) and registered in this district, *Choice Hotels Int'l, Inc. v. Penta Denver, LLC*, No. 3:13-mc-80249-WHA, Dkt. No. 1 (N.D. Cal. Nov. 7, 2013).

Plaintiff shall serve a copy of this report and recommendation on Defendants within three days from the filing date of this Order and shall file a proof of service with this Court.

Any party may file objections to this report and recommendation with the district court judge within 14 days after being served with a copy. See [28 U.S.C. § 636\(b\)\(1\)\(B\)](#); [Fed. R. Civ. P. 72\(b\)](#); Civil L.R. 72-3. Failure to file objections within the specified time may waive the right to appeal the District Court's ultimate Order

IT IS SO ORDERED.

Dated: April 23, 2014

  
 JACQUELINE SCOTT CORLEY  
 UNITED STATES MAGISTRATE JUDGE